

## **TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 316.5 and 2084 of said Code, **proposes** to amend Section 27.80, Title 14, California Code of Regulations, relating to Ocean Salmon Sport Fishing.

### **Informative Digest/Policy Statement Overview**

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries in the Federal fishery management zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by the National Marine Fisheries Service (NMFS).

California's sport fishing regulations will need to conform to the new Federal regulations to achieve optimum yield in California. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport fishery in State waters (zero to three miles offshore) which are consistent with Federal fishery management goals and are effective at the same time.

### **PFMC Regulatory Outlook**

On March 14, 2008, the PFMC will develop the ocean salmon fisheries regulatory options for public review and the final PFMC regulation recommendations will be made on April 11, 2008. The various ocean salmon sport fishery alternatives that the PFMC will examine in the process of adopting options may include:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

### **Commission Regulatory Outlook**

Although there are no PFMC regulatory options to review at this time, the 2008 ocean salmon sport regulations could range from no fishing after April 7 to status-quo (2007) regulations. The

PFMC March options serve as the basis for the Commission's regulatory action affecting the state's ocean salmon sport fishery. There exists a possibility that the NMFS will close federal waters before May 1 due to projected low Central Valley salmon abundance.

For public notice purposes, the Department is proposing the full range of regulatory possible changes from no fishing after April 7 to current regulations with two options for the area north of Horse Mountain and Humboldt Bay.

The reference to Section 1.74 in subsection 27.80(a)(1) is proposed to be removed as salmon report cards are no longer required in ocean waters north of Horse Mountain.

#### Seasons and Exceptions

- (1) North of Horse Mountain and Humboldt Bay
  - a. There are two options for this area:
    - i. Option 1 - The 2008 season is proposed to open between May 1 and August 31 and close between September 1 and September 30.
    - ii. Option 2 - The area will remain closed for 2008.
  - a. In 2009, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process.
- (2) Between Horse Mountain and Point Arena
  - a. The 2008 season will open February 16 and is proposed to close between April 7 and November 16.
  - b. In 2009, the season will open February 14.
- (3) Between Point Arena and Pigeon Point
  - a. The 2008 season will open April 5 and is proposed to close between April 7 and November 9.
  - b. In 2009, the season will open April 4.
  - c. Exception for the ocean area outside San Francisco Bay is closed for any reason during the proposed season.
    - i. The San Francisco Bay will open to salmon fishing on April 5 and close between April 7 and November 9. For purposes of this regulation, the San Francisco Bay is defined as the waters of San Francisco and San Pablo bays plus all their tidal bays, tidal portions of their rivers and streams, sloughs and estuaries between Golden Gate Bridge and Carquinez Bridge unless otherwise noted in Section 7.50.
- (4) Between Pigeon Point and Point Sur
  - a. The 2008 season will open April 5 and is proposed to close between April 7 and October 5.
  - b. In 2009, the season will open April 4.
- (5) South of Point Sur
  - a. The 2008 season will open April 5 and is proposed to close between April 7 and October 5.
  - b. In 2009, the season will open April 4.

#### Bag Limit and Minimum Size

- (1) North of Horse Mountain: The bag limit may be zero, one or two salmon per day and the minimum size will range between 20 and 24 inches total length.
- (2) South of Horse Mountain: The bag limit may be zero, one or two salmon per day and the minimum size will range between 20 and 24 inches total length.

Further Commission action affecting the ocean salmon sport fishery may be needed after the annual PFMC reports, *Review of 2007 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2008 Ocean Salmon Fisheries*, are available in late February 2008.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Best Western Stockton Inn, Fremont Room, 4219 East Waterloo Road, Stockton, California, on Friday, March 7, 2008 at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at UC Davis, Bodega Bay Marine Laboratory, Lecture Hall, 2099 Westside Road, Bodega Bay California, on Friday, April 11, 2008 at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Fish and Game Commission Conference Room, 1416 Ninth Street, Room 1320, Sacramento, California, on Tuesday, April 15, 2008), at 10:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 4, 2008 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 14, 2008. All comments must be received no later than April 15, 2008 at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Koell at the preceding address or phone number. **Marija Vojkovich, Regional Manager, Marine Region, Department of Fish and Game, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person

interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### **Impact of Regulatory Action**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

### **Effect on Small Business**

It has been determined that the adoption of these regulations may affect small business.

### Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: February 13, 2008

John Carlson, Jr.  
Executive Director